

REMARKS

Upon entry of the instant amendment, claims 1-7, 10-14 and 16-29 will remain pending in the present application.

In the instant amendment, claims 1-7 and 10-14 have been amended. Claims 8-9 and 15 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Also, new claims 16-29 have been added.

The instant amendment made herein to the claims does not incorporate new matter into the application as originally filed. For example, claim 1 has been amended by incorporating features of claims 8 and 9. Subsequently, claims 8-9 have been cancelled. New claims 16-29 have been added, as follows:

New claims 16-17 are added based on amendment to claim 2;

New claims 18-19 are added based on amendment to claim 3;

New claims 20-21 are added based on amendment to claim 4;

New claims 22-26 are added based on amendment to claim 6;

New claim 27 is added based on amendment to claim 8;

New claim 28 is added based on amendment to claim 11;

New claim 29 is added based on amendment to claim 12.

Accordingly, proper consideration of each of the pending claims is respectfully requested at present, as is entry of the present amendment.

Information Disclosure Statement (IDS)

Applicants appreciate the Examiner returning the initial PTO-1449 forms submitted by Applicants on December 24, 2006.

Regarding the IDS filed on April 24, 2005, at page 2 of the Office Action, the Examiner states that copies of the references cited in the IDS of April 24, 2005 (i.e., WO 2000/21489, WO 2001/76534 and WO 2001/76535) were not filed. Subsequently, these references listed on the IDS of April 24, 2005 were crossed-out.

However, the same references have been cited by the Examiner in the Office Action and listed on *Notice of References Cited*.

Thus, Applicants do not provide the Examiner with copies of the references herewith.

Objection to Disclosure

At page 2, lines 9-11 of the Office Action, the specification has been objected to because the subject matter of claim 7 is not found in the specification. Applicants respectfully traverse and request that the Examiner withdraw the objection.

In the present amendment, a following paragraph has been inserted after page 8, line 37 of the substitute specification filed on March 20, 2007:

In a preferred embodiment, the biomaterial element of the invention also comprises the above organic phase, preferably at a volume content of < 5%. Preferably, such phase is composed of polyacrylates and/or polycarbonates.

Please note that this amendment to the specification does not incorporate new matter into the specification since this description is supported by original claim 7.

Accordingly, this objection has been overcome. Applicants respectfully request that the Examiner withdraw the objection.

Claim Objection and 35 U.S.C. § 112, 2nd Paragraph Rejection

At pages 2, line 12 to page 3, line 20 of the Office Action, the Examiner has objected to claims 2-4, 8, 11, 12 and 14, and further has rejected claims 5-7, 10, 11, 13 and 15 under 35 U.S.C. § 112, second paragraph, as being indefinite in the outstanding Office Action. Applicants respectfully traverse and request that the Examiner withdraw the objection and the rejection.

In the present amendment, the claims have been amended so as to overcome the objections and the rejections under 35 U.S.C. § 112, 2nd Paragraph. For example, Applicants amended claims 2-6, 8 and 11-12, and subsequently added new claims 16-29, as follows:

New claims 16-17 are added because of amendment to claim 2;

New claims 18-19 are added because of amendment to claim 3;

New claims 20-21 are added because of amendment to claim 4;
New claims 22-26 are added because of amendment to claim 6;
New claim 27 is added because of amendment to claim 8;
New claim 28 is added because of amendment to claim 11; and
New claim 29 is added because of amendment to claim 12.

Thus, upon entry of the present amendment to the claims, the objection and the rejection have been overcome. Accordingly, Applicants respectfully request that the Examiner withdraw the objection and the rejection.

Double Patenting Rejection

At pages 3-5 of the Office Action, the present invention has been rejected because of double patenting. Applicants respectfully traverse and request that the Examiner withdraw the rejection.

First, claims 1-15 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-15 of the co-pending application No. 11/180,583. This co-pending application is a continuation-in-part application (the CIP application) based on the present application. Applicants will abandon the CIP application without prejudice or disclaimer of the subject matter contained therein once the present application is allowed. Accordingly, this rejection will be overcome upon abandonment of the CIP application.

Next, claim 15 is provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 63 of co-pending application No. 10/518,083¹ and as that of claim 21 of co-pending application No. 10/518,080. However, in the present amendment, claim 15 has been cancelled. Thus, this rejection has been overcome.

Finally, claims 1-6, 8, 10 and 12 are rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-3 of Patent No. 6,620,232. However, in the present amendment, independent claim 1 has been amended by incorporating the limitation of claim 9. Thus, this rejection has been overcome.

¹ Copending application No. 10/518,085 recited in the Office Action should read co-pending application No. 10/518,083.

In view of the above, the double patenting rejection is overcome. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claim Rejections - 35 U.S.C. §§ 102(b) and 103(a)

At pages 5-7 of the Office Action, claim 15 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Heinen U.S. '326 (U.S. Patent No. 4,772,326) or Williams U.S. '191 (U.S. Patent No. 3,536,191). Further, claims 1-6, 8, 10 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 00/21489 or WO 01/76534. Further, claims 1-6, 8, 10, 12 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 01/76535.

Applicants respectfully traverse and request that the Examiner withdraw the rejection.

In the present amendment, claim 15 has been cancelled, and independent claim 1 has been amended by incorporating features of claims 8 and 9. Thus, each of the rejections has been overcome. Applicants respectfully request that the Examiner withdraw the rejections.

CONCLUSION

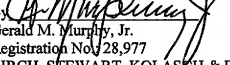
Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr. (Reg. No. 28,977) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 
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